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19 744 P-000 3001
UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
nm Heslin

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
09/388,294	09/01/99	EVANS	M 197449000300

020350

0262/0921

TOWNSEND AND TOWNSEND AND CREW LLP

NOT ASSIGNED

TWO EMBARCADERO CENTER

8TH FLOOR

SAN FRANCISCO CA 94111-3834

Rec. Due

11-21-99 3732

DATE MAILED:

09/21/99

NOTICE TO FILE MISSING PARTS OF APPLICATION Filing Date Granted

An Application Number and Filing Date have been assigned to this application. The items indicated below, however, are missing. Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). If any of items 1 or 3 through 5 are indicated as missing, the **SURCHARGE** set forth in 37 CFR 1.16(e) of ☐ \$65.00 for a small entity in compliance with 37 CFR 1.27, or ☐ \$130.00 for a non-small entity, must also be timely submitted in reply to this NOTICE to avoid abandonment.

If all required items on this form are filed within the period set above, the total amount owed by applicant as a
☐ small entity (statement filed) ☒ non-small entity is \$ 273

☒ 1. The statutory basic filing fee is:

- ☒ missing.
☐ insufficient.

Applicant must submit \$ 760 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).

☒ 2. The following additional claims fees are due:

\$ 1314 for 73 total claims over 20.

\$ 78 for 1 independent claims over 3.

\$ 260 for multiple dependent claim surcharge.

Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

☒ 3. The oath or declaration:

- ☒ is missing or unsigned.
☐ does not cover the newly submitted items.

An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date is required.

☐ 4. The signature(s) to the oath or declaration is/are by a person other than inventor or person qualified under 37 CFR 1.42, 1.43 or 1.47.

A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

☐ 5. The signature of the following joint inventor(s) is missing from the oath or declaration:

An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.

☐ 6. A \$50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).

☐ 7. Your filing receipt was mailed in error because your check was returned without payment.

☐ 8. The application was filed in a language other than English.

Applicant must file a verified English translation of the application, the \$130.00 set forth in 37 CFR 1.17(k), unless previously submitted, and a statement that the translation is accurate (37 CFR 1.52(d)).

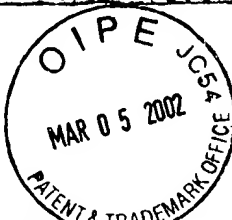
☐ 9. OTHER:

Direct the reply and any questions about this notice to "Attention: Box Missing Parts."

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

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**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
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09/388,294 09/01/99 EVANS

M 197449000300

020350 0262/0921
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

NOT ASSIGNED

3732

DATE MAILED:

09/21/99

NOTICE TO FILE MISSING PARTS OF APPLICATION

Filing Date Granted

An Application Number and Filing Date have been assigned to this application. The items indicated below, however, are missing. Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). If any of items 1 or 3 through 5 are indicated as missing, the SURCHARGE set forth in 37 CFR 1.16(e) of ☐ \$65.00 for a small entity in compliance with 37 CFR 1.27, or ☒ \$130.00 for a non-small entity, must also be timely submitted in reply to this NOTICE to avoid abandonment.

If all required items on this form are filed within the period set above, the total amount owed by applicant as a
☐ small entity (statement filed) ☒ non-small entity is \$ 760.00

☒ 1. The statutory basic filing fee is:

- ☒ missing.
☐ insufficient.

Applicant must submit \$ 760.00 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).

☒ 2. The following additional claims fees are due:

\$ 134.00 for 73 total claims over 20.

\$ 78.00 for 1 independent claims over 3.

\$ 260.00 for multiple dependent claim surcharge.

Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

☒ 3. The oath or declaration:

- ☒ is missing or unsigned.
☐ does not cover the newly submitted items.

An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date is required.

☐ 4. The signature(s) to the oath or declaration is/are by a person other than inventor or person qualified under 37 CFR 1.42, 1.43 or 1.47.

A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

☐ 5. The signature of the following joint inventor(s) is missing from the oath or declaration:

An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.

☐ 6. A \$50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).

☐ 7. Your filing receipt was mailed in error because your check was returned without payment.

☐ 8. The application was filed in a language other than English.

Applicant must file a verified English translation of the application, the \$130.00 set forth in 37 CFR 1.17(k), unless previously submitted, and a statement that the translation is accurate (37 CFR 1.52(d)).

☐ 9. OTHER:

Direct the reply and any questions about this notice to "Attention: Box Missing Parts."

A copy of this notice MUST be returned with the reply.

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Initial Patent Examination Division (703) 308-1202

PATENT APPLICATION FILING ACKNOWLEDGMENT

Mailing Date: 9/1/99
 File No.: 19744P-000300 Attorney: JMH:kah
 Inventor(s): MICHAEL A. EVANS et al.
 Title: METHODS AND APPARATUS FOR ACCESSING AND
VIA EXPRESS MAIL LABEL #EL265824126US

(unsigned) Declaration ☒ X
 No. Pages of Description: 21 X Application Transmittal (01);
 No. Pages of Claims: 06
 No. Pages of Abstract: 01 X Return Postcard
 No. Sheets of Drawings: 19

Please stamp the date of receipt of the enclosed documents and return this card to addressee

jc490 U.S. PTO
 09/388294

 09/01/99

EL265824126US



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Date In <u>9/1/99</u>	<input type="checkbox"/> 12 Noon <input checked="" type="checkbox"/> 3 PM	Postage \$ <u>N.N</u>	
Time In <u>6:00</u> AM <input checked="" type="checkbox"/> PM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee	
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No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials <u>[Signature]</u>	Total Postage & Fees \$ <u>N.N</u>	

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Federal Agency Acct. No. or Postal Service Acct. No.	Customer Signature
FROM: (PLEASE PRINT) <u>JAMES M. HESSLIN</u> <u>TOWNSEND & TOWNSEND & CREW</u> <u>379 LYTON AVE FL 2</u> <u>PALO ALTO CA 94301-1431</u> <u>(19744P-000300/JMH)</u>	TO: (PLEASE PRINT) <u>BOX PATENT APPLICATION</u> <u>ASSISTANT COMMISSIONER</u> <u>OF PATENTS & TRADEMARKS</u> <u>WASHINGTON DC 20231-0001</u>

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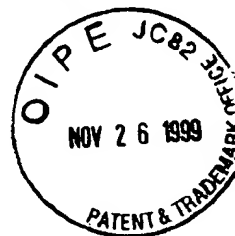
MISSING PART TRANSMITTAL
FILING ACKNOWLEDGMENT

Mailing Date: 11/22/99
Appln. No. 09/388,294
File No.: 19744P-000300
Inventor(s): MICHAEL A. EVANS et al. Attorney: JMH/kh
Title: METHODS AND APPARATUS FOR ACCESSING AND...

Please stamp the date of receipt of the enclosed documents and return this card to addressee

- ☒ MISSING PARTS TRANSMITTAL - IN DUPLICATE;
- ☒ EXECUTED: Declaration, Power by Assignee & Small Entity Declaration;
- ☒ INFORMATION DISCLOSURE STATEMENT & 1449 W/17 REFS.
- ☒ RETURN COPY OF NOTICE.

DUE DATE: 11/21/99 (SUNDAY)
DATE MAILED 11/22/99 (MONDAY)



Customer No. 20350
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
(415) 576-0200



ASSISTANT COMMISSIONER FOR PATENTS
BOX PATENT APPLICATION
Washington, D.C. 20231

Attorney Docket No. 19744P000300US

"Express Mail" Label No. EL265824126US

Date of Deposit: September 1, 1999

I hereby certify that this is being deposited with the United States
Postal Service "Express Mail Post Office to Addressee" service
under 37 CFR 1.10 on the date indicated above, addressed to:

Assistant Commissioner for Patents
Washington, D.C. 20231

By: 
KIMBERLEY PARIS

Sir:

Transmitted herewith for filing under 37 CFR 1.53(b) is the

- ☒ patent application of
- ☐ continuation patent application of
- ☐ divisional patent application of
- ☐ continuation-in-part patent application of

Inventor(s)/Applicant Identifier: MICHAEL A. EVANS et al.

For: METHODS AND APPARATUS FOR ACCESSING AND TREATING BODY LUMENS

Enclosed are:

- ☒ 21 page(s) of specification
- ☒ 06 page(s) of claims
- ☒ 01 page of Abstract
- ☒ 19 sheet(s) of ☐ formal ☒ informal drawing(s).
- ☒ A ☐ signed ☒ unsigned Declaration.
- ☐

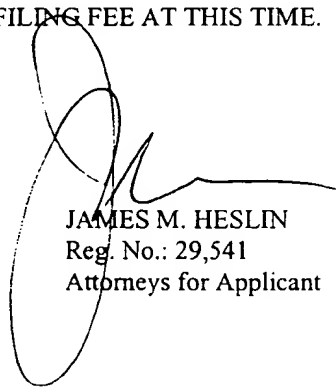
EL265824126US

In view of the Unsigned Declaration as filed with this application and pursuant to 37 CFR §1.53(f),
Applicant requests deferral of the filing fee until submission of the Missing Parts of Application.

DO NOT CHARGE THE FILING FEE AT THIS TIME.

Telephone:
(415) 576-0200

Facsimile:
(415) 576-0300


JAMES M. HESLIN
Reg. No.: 29,541
Attorneys for Applicant

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197441200030045

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CORRECTED



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Patent and Trademark Office
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OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

nmles!n

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTORNEY DOCKET NO.	DRWGS	TOT CL	IND CL
09/388,294	09/01/99	3732	\$1,087.00	197449000300	19	93	4

020350
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts of Application" ("Missing Parts Notice") in this application, please submit any corrections to this Filing Receipt with your reply to the "Missing Parts Notice." When the PTO processes the reply to the "Missing Parts Notice," the PTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s) MICHAEL A. EVANS, PALO ALTO, CA; DENIS M. DEMARAIS,
SAN JOSE, CA.

IF REQUIRED, FOREIGN FILING LICENSE GRANTED 09/20/99 ** SMALL ENTITY **
TITLE

METHODS AND APPARATUS FOR ACCESSING AND TREATING BODY LUMENS

PRELIMINARY CLASS: 606

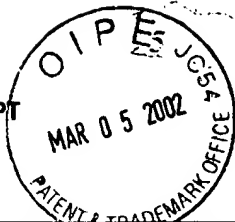
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59 DEC -9 AM 9:57

DATA ENTRY BY: THOMAS, SHEILA

TEAM: 06 DATE: 12/03/99

(See manual for more important information)

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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

19744P-0003006

nm Heslin

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTORNEY DOCKET NO.	DRWGS	TOT CL	IND CL
09/388,294	09/01/99	3732	\$0.00	197449000300	19	93	4

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TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

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Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts of Application" ("Missing Parts Notice") in this application, please submit any corrections to this Filing Receipt with your reply to the "Missing Parts Notice." When the PTO processes the reply to the "Missing Parts Notice," the PTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s) MICHAEL A. EVANS, PALO ALTO, CA; DENIS M. DEMARAIS,
SAN JOSE, CA.

IF REQUIRED, FOREIGN FILING LICENSE GRANTED 09/20/99

TITLE

METHODS AND APPARATUS FOR ACCESSING AND TREATING BODY LUMENS

PRELIMINARY CLASS: 606

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99 SEP 28 AM 7:59
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DATA ENTRY BY: THOMAS, SHEILA

TEAM: 06 DATE: 09/20/99

(See reverse for new important information)

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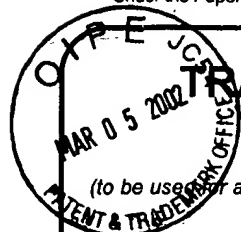
PTO/SB/21 (08-00)

Please type a plus sign (+) inside this box → ☐

Approved for use through 10/31/2002. C 2554 2031

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number	09/388,294
Filing Date	September 1, 1999
First Named Inventor	EVANS, MICHAEL A.
Group Art Unit	3763
Examiner Name	SIRMONS, JAMES
Attorney Docket Number	19744P-000500US

Total Number of Pages in This Submission

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input checked="" type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Reconstruction of File; Form PTO-2053-B; and Return Postcard
--	--	---

Remarks

The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm and Individual name	Townsend and Townsend and Crew LLP Lynn M. Thompson		Reg. No. 47,991
Signature			
Date	February 6, 2002		

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date:

February 6, 2002

Typed or printed name	Kimberly Badiei		
Signature		Date	February 6, 2002

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.
PA 3200055 v1



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FORM PTO-2053-B (REV. 11/2000)

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U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

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Re Application of:

EVANS, Michael A. et al.

Application No.:

09/388,294

Filing Date:

September 1, 1999

Title:

Methods and Apparatus for

Accessing and Treating Body Lumens

Direct to:

Box Reconstruction
United States Patent and Trademark Office
Washington, DC 20231

Carolyn Brown
Supervisory Legal Instrument Examiner
Group 3700

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TECHNOLOGY CENTER R3700

NOTICE UNDER 37 CFR 1.251 - Pending Application

Statement (check the appropriate box):

☒ The copy submitted with this reply is a complete and accurate copy of applicant's record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and applicant for the above-identified application that is not among applicant's records.

☐ The copy of the paper(s) listed in the notice under 37 CFR 1.251 is/are a complete and accurate copy of applicant's record of such paper(s).

☐ The papers produced by applicant are applicant's complete record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and the applicant for the above-identified application that is not among applicant's records.

☐ Applicant does not possess any record of the correspondence between the Office and the applicant for the above-identified application.

Date

2/6/02

Signature

Lynn M. Thompson

Typed or printed name

A copy of this notice should be returned with the reply.

Burden Hour Statement: This collection of information is required by 37 CFR 1.251. The information is used by the public to reply to a request for copies of correspondence between the applicant and the USPTO in order to reconstruct an application file. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 60 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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Lynn M. Thompson

Townsend and Townsend

and Crew, LLP

Second Floor

379 Lytton Avenue

Palo Alto, CA 94301-1431

August 17, 2001

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MAR 13 2002
TECHNOLOGY CENTER R3700

RE:

S/N 09/388,294 - RETURN OF PAPERS

YOUR REF: 19744P-000300US

PAS NO: 01-17163

Dear Lynn:

As authorized by your FedEx letter of August 8, 2001, the materials related to the above application has been hand delivered directly to the Examiner David Shay of group 330 of the USPTO on August 16, 2001.

Kindly find enclosed a postcard that has been initialed by the Examiner David Shay to indicate receipt.

Kindly call if you have a question

U.S. PATENT OFFICE


Please stamp the date of receipt of the following documents
and return this card to us:

Serial No: 09/388,294

For: Methods and Apparatus For Accessing and Body Lumens

Materials Delivered: Return of papers




DAVID SHAY

Atty. File No. 19744P-000300US

Aug. 16, 2001

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and
TOWNSEND
and
CREW

LLP



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Palo Alto

379 Lytton Avenue
Palo Alto
California 94301-1431
Tel 650 326-2400
Fax 650 326-2422

Direct: 650-324-6349
lmthompson@townsend.com

August 7, 2001

VIA FEDEX

Tommy L. Foster
PRIOR ART SEARCHES
Crystal Towers North, Suite 1
1600 S. Eads Street
Arlington, VA 22202

RECEIVED
MAR 13 2002
TECHNOLOGY CENTER R3700

Re: US Patent Application No. 09/388,294
For: METHODS AND APPARATUS FOR ACCESSING AND TREATING
BODY LUMENS
Filed: September 1, 1999
Our File No.: 19744P-000300US

Dear Tommy,

Please find enclosed an Office Action and coverletter for Examiner David Shay, Group 330. Please hand deliver to Mr. Shay at the United States Patent and Trademark Office.

Should you have any questions regarding this request, please do not hesitate to contact me. Thank you for your assistance in this matter.

Sincerely,


Lynn M. Thompson
Patent Agent

LMT

Enclosures

- Coverletter
- Office Action directed to 09/388,294

cc: MDB
PA 3162015 v1

August 7, 2001

VIA HAND DELIVERY

David M. Shay
Primary Examiner
Group 330
Commissioner of Patents and Trademarks
Washington, D.C. 20231


Re: Return of Papers (Do Not File)

Dear Mr. Shay,

We have received an Office Action, mail date 06/13/01, from you in regards to Application No. 09/388,294. However, all documents other than the coversheet are not relevant to the above named application. The documents appear to be an Office Action for Application No. 09/388,924 which is unrelated to our client. We assume that the correct documents for our client were sent to another party, a breach of confidentiality that highly concerns us.

Enclosed is the subject Office Action as received by us. We have not made any copies of the enclosed documents for our files. We would like you to provide the correct Office Action for this application with a new period for reply as we will not be able to prepare a response until receipt of the correct Office Action.

Sincerely,


Lynn M. Thompson
Patent Agent

LMT

Enclosure:

-Office Action directed to 09/388,294

cc: MDB

PA 3162012 v1

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UNITED STATES PATENT AND TRADEMARK OFFICE

Mailing Date: March 29, 2001 Via First Class Mail
Application of: Evans et al.
Title: METHODS AND APPARATUS FOR ACCESSING AND TREATING BODY LUMENS
Serial No.: 09/388,294 Filed: September 1, 1999

Please stamp the date of receipt of the enclosed documents and return this card to addressee:

1. Transmittal Letter - Amendment
2. Fee Transmittal
3. Petition for Extension of Time
4. Amendment

File No. 19744P-000300US

Atty/Secty: LMT/lah

UNITED STATES PATENT AND TRADEMARK OFFICE

Mailing Date: March 29, 2001 Via First Class Mail
Application of: Evans et al.
Title: METHODS AND APPARATUS FOR ACCESSING AND TREATING BODY LUMENS
Serial No.: 09/388,294 Filed: September 1, 1999

Please stamp the date of receipt of the enclosed documents and return this card to addressee:

1. Transmittal Letter - Amendment
2. Fee Transmittal
3. Petition for Extension of Time
4. Amendment

File No. 19744P-000300US

Atty/Secty: LMT/lah

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Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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	Application Number	09/388,294
	Filing Date	September 1, 1999
	First Named Inventor	EVANS, MICHAEL, et. al.
	Group Art Unit	3763
	Examiner Name	SIRMONS, K.
Total Number of Pages in This Submission		Attorney Docket Number 19744P000300

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks 		The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm and Individual name	Townsend and Townsend and Crew LLP Lynn M. Thompson	
	Reg No. 47,991	
Signature		
Date	3/28/01	

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date:			
			3/29/01
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Signature		Date	3/29/01

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<div style="display: flex; align-items: center; justify-content: center;"> <div style="border: 2px solid black; border-radius: 50%; padding: 10px; margin-right: 10px; text-align: center;"> PTO MAR 05 2002 PTO </div> <div> <h1 style="margin: 0;">FEE TRANSMITTAL</h1> <h2 style="margin: 0;">for FY 2001</h2> <p style="font-size: small; margin-top: 5px;">Patent fees are subject to annual revision.</p> </div> </div>		Complete if Known	
TOTAL AMOUNT OF PAYMENT (\$) 190		Application Number 09/388,294 Filing Date September 1, 1999 First Named Inventor EVANS, MICHAEL, et. al. Examiner Name SIRMONS, K. Group Art Unit 3763 Attorney Docket No. 19744P000300	

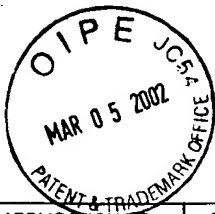
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<p>1. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> Deposit Account Number 20-1430 </div> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> Deposit Account Name Townsend and Townsend and Crew LLP </div> <p><input checked="" type="checkbox"/> Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17 <input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27</p> <p>2. <input type="checkbox"/> Payment Enclosed:</p> <p style="font-size: small;"> <input type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money Order <input type="checkbox"/> Other </p>	<p>3. ADDITIONAL FEES</p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <thead> <tr> <th>Large Fee Code</th> <th>Entity Fee (\$)</th> <th>Small Fee Code</th> <th>Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>105</td><td>130</td><td>205</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr> <tr><td>127</td><td>50</td><td>227</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet.</td><td></td></tr> <tr><td>139</td><td>130</td><td>139</td><td>130</td><td>Non-English specification</td><td></td></tr> <tr><td>147</td><td>2,520</td><td>147</td><td>2,520</td><td>For filing a request for reexamination</td><td></td></tr> <tr><td>112</td><td>920*</td><td>112</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr> <tr><td>113</td><td>1,840*</td><td>113</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr> <tr><td>115</td><td>110</td><td>215</td><td>55</td><td>Extension for reply within first month</td><td>55</td></tr> <tr><td>116</td><td>390</td><td>216</td><td>195</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>117</td><td>890</td><td>217</td><td>445</td><td>Extension for reply within third month</td><td></td></tr> <tr><td>118</td><td>1,390</td><td>218</td><td>695</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>128</td><td>1,890</td><td>228</td><td>945</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>119</td><td>310</td><td>219</td><td>155</td><td>Notice of Appeal</td><td></td></tr> <tr><td>120</td><td>310</td><td>220</td><td>155</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>121</td><td>270</td><td>221</td><td>135</td><td>Request for oral hearing</td><td></td></tr> <tr><td>138</td><td>1,510</td><td>138</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr> <tr><td>140</td><td>110</td><td>240</td><td>55</td><td>Petition to revive - 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late filing fee or oath		127	50	227	25	Surcharge - late provisional filing fee or cover sheet.		139	130	139	130	Non-English specification		147	2,520	147	2,520	For filing a request for reexamination		112	920*	112	920*	Requesting publication of SIR prior to Examiner action		113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action		115	110	215	55	Extension for reply within first month	55	116	390	216	195	Extension for reply within second month		117	890	217	445	Extension for reply within third month		118	1,390	218	695	Extension for reply within fourth month		128	1,890	228	945	Extension for reply within fifth month		119	310	219	155	Notice of Appeal		120	310	220	155	Filing a brief in support of an appeal		121	270	221	135	Request for oral hearing		138	1,510	138	1,510	Petition to institute a public use proceeding		140	110	240	55	Petition to revive - unavoidable		141	1,240	241	620	Petition to revive - unintentional		142	1,240	242	620	Utility issue fee (or reissue)		143	440	243	220	Design issue fee		144	600	244	300	Plant issue fee		122	130	122	130	Petitions to the Commissioner		123	50	123	50	Petitions related to provisional applications		126	180	126	180	Submission of Information Disclosure Stmt		581	40	581	40	Recording each patent assignment per property (times number of properties)		146	710	246	355	Filing a submission after final rejection (37 CFR § 1.129(a))		149	710	249	355	For each additional invention to be examined (37 CFR § 1.129(b))		179	710	279	355	Request for Continued Examination (RCE)		169	900	169	900	Request for expedited examination of a design application	
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**or number previously paid, if greater; For Reissues, see above

SUBMITTED BY			Complete (if applicable)		
Name (Print/Type)	Lynn M. Thompson	Registration No. (Attorney/Agent)	47,991	Telephone	650-326-2400
Signature				Date	3/28/01

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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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00-0891, 234 01/01/99 EVAN

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TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-1074

EXAMINER

SIMMONS

ART UNIT

PAPER NUMBER

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DATE MAILED:

12/01/00

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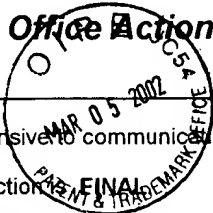
Please find below and/or attached an Office communication concerning this application or proceeding.


JMHeslin
Commissioner of Patents and Trademarks

Response Due 12/01/01 re

DEC 1 10 00 AM '01

Office Action Summary



Application No. 09/388,294	Applicant(s) Michael Evans	
Examiner Kevin C. Slrmoms	Group Art Unit 3763	

- ☒ Responsive to communication(s) filed on Sep 18, 2000
- ☐ This action is **FINAL**
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

- ☒ Claim(s) 33-38 and 42-45 is/are pending in the application
- Of the above, claim(s) _____ is/are withdrawn from consideration
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 33-38 and 42-45 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

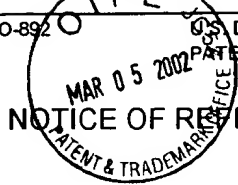
*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

FORM PTO-892		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		SERIAL NO. 09388294	GROUP ART UNIT 3763	ATTACHMENT TO PAPER NO. 7	
 NOTICE OF REFERENCES CITED				APPLICANT(S) Michael Evans			
U.S. PATENT DOCUMENTS							
*		DOCUMENT NO.	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	A	5,246,014	9/1993	Williams et al.	607	122	
	B	3,539,034	11/1970	Tafeen			
	C						
	D						
	E						
	F						
	G						
	H						
	I						
	J						
	K						
FOREIGN PATENT DOCUMENTS							
*		DOCUMENT NO.	DATE	COUNTRY	NAME	CLASS	SUB-CLASS
	L						
	M						
	N						
	O						
	P						
	Q						
OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)							
	R						
	S						
	T						
	U						
EXAMINER Kevin C. Sirmons			DATE November 28, 2000		Form892ccs2106b		
* A copy of this reference is not being furnished with this office action. (See Manual of Patent Examining Procedure, section 707.05(a).)							

Art Unit: 3763

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 33-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 33, it is unclear if the means advancable from the catheter for creating a second access penetration is the guide tube or the penetrating element or both.

As to claim 43, it is unclear as to what is meant by the guide tube has a pre-formed tip which deflects laterally. It appears that the penetrating element has the pre-formed tip. Please explain?

Note: The examiner will examine the claims as best understood.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 33, 34, 36, and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Quick et al. U.S. Pat. No. 5,857,999.

Art Unit: 3763

Quick discloses a device for positioning a filament in a body lumen comprising: a catheter (10) which can be introduced through a first access penetration into the body lumen; and means advancable from the catheter (12, 70) for creating a second access penetration and providing a filament path (12, 70) between said first and second access penetrations; wherein the catheter has at least one lumen therethrough (10) and the advancable means is reciprocable received in the catheter lumen (10); wherein the advancable means comprises a guide tube having a lumen therethrough (12) and a penetrating element removably received in the lumen and extending from the distal tip of the guide tube (70, 98), wherein the penetrating means can be withdrawn from the guide tube after the guide tube has been placed between the access penetrations to leave the guide tube lumen as the filament path (figs. 1-3; further comprising an expandable anchor disposed over at least a position of the catheter (64)).

4. Claims 33-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Tafeen. U.S. Pat. No. 3,539,034.

Tafeen discloses a device for positioning a filament in a body lumen comprising: a catheter (20) which can be introduced through a first access penetration into the body lumen; and means advancable from the catheter (12, 14, 16, 18) for creating a second access penetration and providing a filament path (12, 14, 16) between said first and second access penetrations; wherein the advancable means has a pre-formed tip which deflects laterally as it is advanced from the catheter (12, 14, 16, 26); wherein the advancable means comprises a guide tube (16) having a lumen therethrough and a penetrating element removably received in the lumen (12, 14, 18),

Art Unit: 3763

wherein the penetrating element can be withdrawn from the guide tube after the guide tube has been placed between the access penetration to leave the guide tube lumen as the filament path (12, 14); wherein the penetrating element is a stylet (12, 14, 18).

5. Claims 42- 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams et al. U.S. Pat. No. 5,246,014.

Williams discloses a device for positioning a filament in a body lumen, said device comprising: a catheter which can be introduced through a first access penetration into the body lumen, said catheter having a proximal end, distal end and a lumen therethrough (50); a guide tube reciprocatably disposed in the lumen of the catheter so that the guide tube can be advanced from the distal end of the catheter (40), said guide tube having a proximal end, a distal end, and a lumen therethrough (40), wherein the distal end of the guide tube is deflectable (col. 16, lines 1 and 2); and a penetrating element reciprocatably mounted in the lumen of the guide tube so that the penetrating element can be advanced from the distal end of the guide tube to penetrate a luminal wall in a direction determined by deflection of the distal end of the guide tube (10); wherein the guide tube has a pre-formed tip which deflects laterally as the guide tube is advanced from the catheter (40 and 10); wherein the penetrating element is a stylet (10); further comprising an expandable anchor disposed over at least a portion of the catheter (10).

Response to Arguments

6. Applicant's arguments with respect to claims 33-38 and 42-45 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kevin C. Sirmons whose telephone number is (703)306-5410.


The examiner can normally be reached on Monday - Thursday from 6:30 am to 4:00 pm. The examiner can also be reached on alternate Fridays.

KCS

Kevin C. Sirmons

Patent Examiner

11/28/00


RICHARD K. SEIDEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

COPY OF PAPERS
ORIGINALLY FILED



AMENDMENT
FILING ACKNOWLEDGMENT

Mailing Date: 9/12/00
Appln. No. 09/388,294
File No.: 15471-000300 Attorney: JMH/lmc
Inventor(s): MICHAEL A. EVANS, et al.
Title: METHODS AND APPARATUS FOR ACCESSING AND TREATING...

Please stamp the date of receipt of the enclosed documents and return this card to addressee

☒ AMENDMENT TRANSMITTAL
☒ AMENDMENT (5 pages)

DUE DATE: 11/11/00
DATE MAILED 9/12/00

AMENDMENT
FILING ACKNOWLEDGMENT

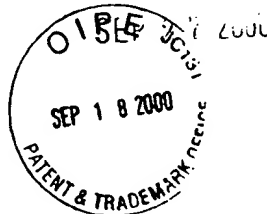
19744P-000300US

Mailing Date: 9/12/00
Appln. No. 09/388,294
File No.: 15471-000300 Attorney: JMH/lmc
Inventor(s): MICHAEL A. EVANS, et al.
Title: METHODS AND APPARATUS FOR ACCESSING AND TREATING...

Please stamp the date of receipt of the enclosed documents and return this card to addressee

☒ AMENDMENT TRANSMITTAL
☒ AMENDMENT (5 pages)

DUE DATE: 11/11/00
DATE MAILED 9/12/00



COPY OF PAPERS
ORIGINALLY FILED



19744P 000360US

UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

JMHeslin

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/388,294	09/01/99	EVANS	M 197449000300

020350 QM12/0811
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111

EXAMINER

SIRMONS, K

ART UNIT

PAPER NUMBER

3763

DATE MAILED: 08/11/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

TOWNSEND & TOWNSEND
& CREW
00 AUG 18 AM 10:24
RECEIVED

Response Due 11/11/00



COPY OF PAPERS
ORIGINALLY FILED

Application No.
09/388,294

Applicant(s)

Michael Evans

Examiner
Kevin C. Sirmans

Group Art Unit
3763



☒ Responsive to communication(s) filed on Sep 1, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-41 is/are pending in the applicat

Of the above, claim(s) 1-31, 40, and 41 is/are withdrawn from consideration

☐ Claim(s) is/are allowed.

☒ Claim(s) 32-39 is/are rejected.

☐ Claim(s) is/are objected to.

☐ Claims are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number)

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received:

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 3763

Drawings

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-9, drawn to a method for forming a second access penetration in a wall of a body lumen having a first access penetration in said wall, classified in class 604, subclass 28.
 - II. Claims 10-32, drawn to a method for positioning a guidewire in a body lumen, classified in class 604, subclass 500.
 - III. Claims 33-39, drawn to a device for positioning a filament in a body lumen, classified in class 604, subclass 164.01.
 - IV. Claims 40-41, drawn to a kit, classified in class 206, subclass 570.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination already has two separate access sites formed in the wall. The subcombination has separate utility such as forming a second access in a wall.

Art Unit: 3763

Drawings

3. Inventions I, II and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process for using the product as claimed can be practiced by a gastronomy device.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Jim Heslin on 8/3/00 a provisional election was made without traverse to prosecute the invention of group III, claims 33-39. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-32 and 40-41 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Art Unit: 3763

Drawings

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "support tube" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 33-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 33 and 39, it is unclear what is the structural difference between the catheter and the support tube. They appear to be the same!

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 33-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Miraki U.S. Pat. No. 5,387,193.

Art Unit: 3763

Drawings

Miraki discloses a device for positioning a filament in a body lumen comprising: a catheter (10) which can be introduced through a first access penetration into the body lumen; and means advancable from the catheter (84) for creating a second access penetration and providing a filament path (84) between said first and second access penetrations; wherein the catheter has at least one lumen therethrough (112) and the advancable means is reciprocatably received in the catheter lumen (112); wherein the advancable means has a preformed tip which deflects laterally as it is advanced from the catheter (84); wherein the advancable means comprises a guide tube having a lumen therethrough (110) and a penetrating element removably received in the lumen and extending from the distal tip of the guide tube, wherein the penetrating means can be withdrawn from the guide tube after the guide tube has been placed between the access penetrations to leave the guide tube lumen as the filament path wherein the penetrating element is a stylet (84); further comprising an expandable anchor disposed over at least a position of the catheter (48); further comprising a support tube having a lumen (9 and 11).

Conclusion

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kevin C. Sirmons whose telephone number is (703)306-5410.

The examiner can normally be reached on Monday - Thursday from 6:30 am to 4:00 pm. The examiner can also be reached on alternate Fridays.

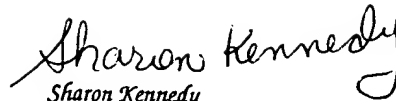
Art Unit: 3763


Kevin C. Sirmons

Patent Examiner

8/7/00

Drawings


Sharon Kennedy
Primary Examiner

O I P E
MAR 05 2002
JCS
FICE

FORM PTO-1449 (Modified) **LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT** (Use several sheets if necessary)

Attorney Docket No.: 19744P000300
Applicant: MICHAEL A. EVANS et al.
Filing Date: September 1, 1999

Application No.: 09/388,294
Group: 3732

Page 1

U.S. PATENT DOCUMENTS						
Examiner Initial	Document No.	Date	Name	Class	Sub-class	Filing Date (If Appropriate)
KCS	A	4,621,636	11/11/1986	Forgarty		
	B	4,754,752	07/05/1988	Ginsburg et al.		
	C	4,769,005	09/06/1988	Ginsburg et al.		
	D	4,790,310	12/13/1988	Ginsburg et al.		
	E	5,011,488	04/30/1991	Ginsburg		
	F	5,287,861	02/22/1994	Wilk		
	G	5,409,019	04/25/1995	Wilk		
	H	5,413,581	05/09/1995	Goy		
	I	5,429,144	07/04/1995	Wilk		
	J	5,443,497	08/22/1995	Venbrux		
	K	5,464,395	11/07/1995	Faxon et al.		
	L	4,873,978	10/17/1989	Ginsburg		
	M	5,766,191	06/16/1998	Trerotola		
	N	5,824,040	10/20/1998	Cox et al.		
	O	5,899,909	05/04/1999	Claren et al.		

O I P E
NOV 26 1999
JCS
PATENT & TRADEMARK

FOREIGN PATENT DOCUMENTS						
	Document No.	Date	Country	Class	Sub-class	Translation (Yes/No)
	P	WO 97/13463	04/17/1997	PCT		
KCS	Q	WO 97/13471	04/17/1997	PCT		

OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER *Sumner* DATE CONSIDERED 8/7/00

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

COPY OF PAPERS
ORIGINALLY FILED

Form PTO 946

U.S. DEPARTMENT OF COMMERCE - Patent and Trademark Office

Application No.



NOTICE OF DRAFTSPERSON'S
PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 3/1/99 are:

A. ☐ approved by the Draftsperson under 37 CFR 1.84 or 1.152.

B. ☒ objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. The Examiner will require submission of new, corrected drawings when necessary. Corrected drawing must be submitted according to the instructions on the back of this notice.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings:
Black ink. Color.

Color drawings are not acceptable until petition is granted.

Fig(s) _____
Pencil and non black ink not permitted. Fig(s) _____

2. PHOTOGRAPHS. 37 CFR 1.84 (b)

1 full-tone set is required. Fig(s) _____

Photographs not properly mounted (must use bristol board or

photographic double-weight paper). Fig(s) _____

Poor quality (half-tone). Fig(s) _____

3. TYPE OF PAPER. 37 CFR 1.84(e)

Paper not flexible, strong, white, and durable.

Fig(s) _____

Erasures, alterations, overwritings, interlineations,

folds, copy machine marks not accepted. Fig(s) _____

Mylar, velum paper is not acceptable (too thin).

Fig(s) _____

4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:

21.0 cm by 29.7 cm (DIN size A4)

21.6 cm by 27.9 cm (8 1/2 x 11 inches)

All drawing sheets not the same size.

Sheet(s) _____

Drawings sheets not an acceptable size. Fig(s) _____

5. MARGINS. 37 CFR 1.84(g): Acceptable margins:

Top 2.5 cm Left 2.5cm Right 1.5 cm Bottom 1.0 cm

SIZE: A4 Size

Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

SIZE: 8 1/2 x 11

Margins not acceptable. Fig(s) _____

Top (T) _____ Left (L) _____

Right (R) _____ Bottom (B) _____

6. VIEWS. 37 CFR 1.84(h)

REMINDER: Specification may require revision to correspond to drawing changes.

Partial views. 37 CFR 1.84(h)(2)

Brackets needed to show figure as one entity.

Fig(s) _____

Views not labeled separately or properly.

Fig(s) _____

Enlarged view not labeled separately or properly.

Fig(s) _____

7. SECTIONAL VIEWS. 37 CFR 1.84 (h)(3)

Hatching not indicated for sectional portions of an object.

Fig(s) _____

Sectional designation should be noted with Arabic or

Roman numbers. Fig(s) _____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s) _____

9. SCALE. 37 CFR 1.84(k)

Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction.

Fig(s) _____

10. CHARACTER OF LINES, NUMBERS, & LETTERS.

37 CFR 1.84(i)

Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality). Fig(s) 1-70

11. SHADING. 37 CFR 1.84(m)

Solid black areas pale. Fig(s) _____

Solid black shading not permitted. Fig(s) _____

Shade lines, pale, rough and blurred. Fig(s) _____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS.

37 CFR 1.84(p)

Numbers and reference characters not plain and legible.

Fig(s) _____

Figure legends are poor. Fig(s) _____

Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(1)

Fig(s) _____

English alphabet not used. 37 CFR 1.84(p)(2)

Figs _____

Numbers, letters and reference characters must be at least

.32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3)

Fig(s) _____

13. LEAD LINES. 37 CFR 1.84(q)

Lead lines cross each other. Fig(s) _____

Lead lines missing. Fig(s) _____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(i)

Sheets not numbered consecutively, and in Arabic numerals

beginning with number 1. Sheet(s) _____

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)

Views not numbered consecutively, and in Arabic numerals,

beginning with number 1. Fig(s) _____

16. CORRECTIONS. 37 CFR 1.84(w)

Corrections not made from prior PTO-948

dated _____

17. DESIGN DRAWINGS. 37 CFR 1.152

Surface shading shown not appropriate. Fig(s) _____

Solid black shading not used for color contrast.

Fig(s) _____


COMMENTS

REVIEWER

DATE

TELEPHONE NO.

ATTACHMENT TO PAPER NO.

FORM PTO-992  NOTICE OF REFERENCES CITED	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	SERIAL NO. 09388294	GROUP ART UNIT 3763	ATTACHMENT TO PAPER NO. 5
	APPLICANT(S) Michael A. Evans et al			

U.S. PATENT DOCUMENTS

*		DOCUMENT NO.	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	A	5,312,341	5/1994	Turi	604	96	
	B	5,454,790	10/1995	Dubrul	604	104	
	C	5,215,105	6/1993	Kizelshteyn et al.	128	898	
	D	5,167,627	12/1992	Clegg et al.	604	101	
	E	5,312,360	5/1994	Behl	604	164	
	F	5,814,058	9/1998	Carlson et al	606	185	
	G	5,830,125	11/1998	Scribner et al	606	139	
	H	5,885,238	3/1999	Stevens et al	604	4	
	I	5,916,193	6/29/99	Stevens et al	604	4	
	J	5,584,803	12/1996	Stevens et al.	604	4	
	K	5,702,368	12/1997	Stevens et al	604	171	

FOREIGN PATENT DOCUMENTS

*		DOCUMENT NO.	DATE	COUNTRY	NAME	CLASS	SUB-CLASS
	L						
	M						
	N						
	O						
	P						
	Q						

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)

	R	
	S	
	T	
	U	

EXAMINER Kevin C. Simons	DATE August 7, 2000	Form892ccs2106b
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* A copy of this reference is not being furnished with this office action.
(See Manual of Patent Examining Procedure, section 707.05(a).)

FORM PTO-892	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	SERIAL NO. 09388294	GROUP ART UNIT 3763	ATTACHMENT TO PAPER NO.	5
NOTICE OF REFERENCES CITED		APPLICANT(S) Michael A. Evans et al			

U.S. PATENT DOCUMENTS

*		DOCUMENT NO.	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	A	5,769,812	6/1998	Stevens et al	604	4	
	B	5,387,193	2/7/95	Miraki	604	96	
	C	5,322,513	6/1994	Walker	604	161	
	D	5,439,447	8/1995	Miraki	604	96	
	E						
	F						
	G						
	H						
	I						
	J						
	K						

FOREIGN PATENT DOCUMENTS

*		DOCUMENT NO.	DATE	COUNTRY	NAME	CLASS	SUB-CLASS
	L						
	M						
	N						
	O						
	P						
	Q						

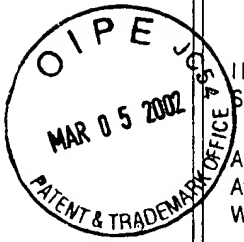
OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)

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EXAMINER Kevin C. Sirmons	DATE August 7, 2000	Form892ccs2106b
------------------------------	------------------------	-----------------

* A copy of this reference is not being furnished with this office action.
(See Manual of Patent Examining Procedure, section 707.05(a).)

**COPY OF PAPERS
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

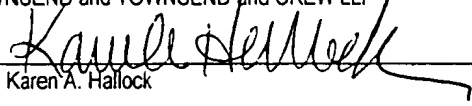
PATENT

Attorney Docket No.: 19744P-000300

Assistant Commissioner for Patents,
Attn: Box Missing Parts
Washington, D.C. 20231, on NOVEMBER 22, 1999

TOWNSEND and TOWNSEND and CREW LLP

By


Karen A. Hallock

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

MICHAEL A. EVANS et al.

Examiner: Not Assigned

Application No.: 09/388,294

Art Unit: 3732

Filed: September 1, 1999

For: METHODS AND APPARATUS FOR
ACCESSING AND TREATING
BODY LUMENS

TRANSMITTAL LETTER - RESPONSE
TO NOTICE OF MISSING PARTS

Attn: Box Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Pursuant to the Notice to File Missing Parts of Application - Filing Date
Granted dated September 21, 1999, enclosed are the following to be made of record in the
above-identified application:

1. Executed Declaration;
2. Executed Power of Attorney by Assignee;
3. Executed Small Entity Declaration
4. Information Disclosure Statement & 1449 w/17 refs.; &
5. Return copy of Notice.